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10 Attorneys for Defendants
11 PETCO ANIMAL SUPPLIES, INC. and
12 PETCO HOLDINGS, INC. LLC

13 **UNITED STATES DISTRICT COURT**
14 **SOUTHERN DISTRICT OF CALIFORNIA**

15
16 Erik Kellgren, Individually and on Behalf
17 of All Other Persons Similarly Situated,

18 Plaintiffs,

19 v.

20 PETCO ANIMAL SUPPLIES, INC.;
21 PETCO HOLDINGS, INC.; and
22 DOES 1 to 100, inclusive,

23 Defendants.

Case No. 13-cv-00644-L-KSC

**STATEMENT RE STATUS OF
DISPUTE REGARDING OPT-IN
PLAINTIFFS' RESPONSES TO
RFA NO. 7**

Complaint Filed: March 19, 2013

District Judge: Hon. M. James Lorenz
Courtroom: 5B (Schwartz)

Magistrate
Judge: Karen S. Crawford

Trial Date: Not Set

Pursuant to the Minute Order issued by the Court on November 29, 2016, (Dkt. No. 189) and instructions provided by the Court on December 5, 2016, Plaintiff Erik Kellgren (“Plaintiff”) and Defendants Petco Animal Supplies, Inc. and Petco Holdings, Inc. (“Petco”), by and through their undersigned counsel, hereby advise the Court that the Parties have resolved their dispute with respect to Request for Admission No. 7 (“RFA No. 7”) which is a subject of the Joint Motion for the Resolution of a Discovery Dispute Regarding Opt-In Plaintiffs’ Responses to Petco’s Request for Admission No. 7 and Other Matters (“Joint Motion”), filed November 4, 2016, (Dkt. No. 180).

The Joint Motion sought an order compelling a response to RFA No. 7 from the 46 Opt-In Plaintiffs whose responses to Petco’s written discovery were due on September 21 and 30, 2016. The Parties have agreed to resolve this dispute, as follows:

For the 31 Opt-In Plaintiffs in this group who have either produced an Assistant Manager performance evaluation in response to Petco’s written discovery (Opt-In Plaintiff Stephen Black) or for whom Petco has previously produced Assistant Manager performance evaluations, these Opt-In Plaintiffs will respond to RFA No. 7 no later than December 30, 2016;¹ and

For the additional 15 Opt-In Plaintiffs in this group, Petco will produce the personnel records it has agreed to produce in response to Plaintiff’s Third Request for Production of Documents, including Assistant Manager performance evaluations, for

¹ The 30 Opt-In Plaintiffs for whom Petco has produced documents are: Bryan Akins, Pete Allick, Mathew Anderson, Patrick Arnold, Ann Bingham, Michael Bomboy, Irene Brooks, Donna Capurso, Giavanna Cargill, David Carlock, Michael Coffey, Alan Cook, Maria Cote, Devin Dalton, Karen Dehn, Adam Eberhardt, Candice Gaudenzi, Sarah Gutkowski-Severson, April Hamm, Megan James, Charles Kerr, Kristin Kovar, Matthew Kinnard, Stephanie Mazourek, John Newman, Monica Petrillo, Stephanie Robitaille, Frank Smego, Jared Soper, and On Tong.

1 11 of these Opt-In Plaintiffs, on or before December 14, 2016 and these 11 Opt-In
2 Plaintiffs will respond to RFA No. 7, on or before January 13, 2017.²

3 The Parties have further reached an agreement regarding the 72 additional Opt-
4 In Plaintiffs who have been selected to respond to Petco's written discovery, though
5 their responses to RFA No. 7 were not the subject of the Joint Motion. With respect
6 to the four Opt-In Plaintiffs who have produced Assistant Manager performance
7 evaluations in response to Petco's written discovery (Cynthia Marscher, Jonathan
8 Ocasio, Byron Tankersley and Christopher Urioste), these Opt-In Plaintiffs will
9 respond to RFA No. 7 no later than December 30, 2016. For the remainder of this
10 group, Petco will complete its production of the personnel records it has agreed to
11 produce in response to Plaintiff's Third Request for Production of Documents,
12 including any Assistant Manager performance evaluations on or before December 23,
13 2016. Any Opt-In Plaintiffs for whom performance evaluations are produced will
14 respond to RFA No. 7 by January 23, 2017.

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27 ² These 11 Opt-In Plaintiffs are: Denise Acker, Amanda Allgood, Rebecca Bors,
28 Barbara Busch, Timothy Eplion, Lhaika Fortune, Scott Goldstein, Roberto Gomez,
Therese Kopchinski, Domenick Roberti, and Noreen Rogers.

1 Dated: December 7, 2016

KLAFTER OLSEN & LESSER LLP

2 By: s/Fran L. Rudich

3 FRAN L. RUDICH

4 Attorneys for Plaintiff ERIK KELLGREN

5
6 Dated: December 7, 2016

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7 By: s/Meryl C. Maneker

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14 Attorneys for Defendants

PETCO ANIMAL SUPPLIES, INC. and

15 PETCO HOLDINGS, INC. LLC

16
17 **SIGNATURE CERTIFICATION**

18 Pursuant to Section 2(f)(4) of the Electronic Case Filing Administrative Policies
19 and Procedures Manual, I hereby certify that the content of this document is
20 acceptable to Fran L. Rudich, counsel for Plaintiff, Erik Kellgren, and that I have
21 obtained Ms. Rudich's authorization to affix her electronic signature to this document.
22

23 s/ Meryl C. Maneker

24 MERYL C. MANEKER